

Cadastral Surveyors Licensing Board of New Zealand

Bulletin No 1 February 2008

Purpose of Bulletin

This is the first bulletin of the Cadastral Surveyors Licensing Board of New Zealand established under the Cadastral Survey Act 2002. This bulletin gives surveyors an idea of some of the work the Board attends to throughout the year. As well as licensing cadastral surveyors the Board is charged with investigating complaints about cadastral surveyors, and taking disciplinary action when appropriate. The bulletin discusses complaints the Board has dealt with recently. Its intention is to advise surveyors about the type of complaints the Board receives and the lessons that can be learned so that others can avoid similar situations.

The Responsibility of the Board in Protecting the Cadastre

Sections 10, 11 and 12 of the Act establish and define the functions and powers of the Board. The first purpose of the Act, as defined in Section 3(a), is to promote and maintain the accuracy of the cadastre. Hence the Board recognises its responsibility to the Crown in protecting the integrity of the cadastre when hearing complaints of professional misconduct under Part

4 of the Act. Schedule 2 of the Act defines professional misconduct and the Board deals only with matters defined in Schedule 2 when dealing with complaints.

Surveyors who wish to read the Act can find a copy at the Parliamentary Council Office website. www.legislation.govt.nz

Professional Misconduct Hearings

Between April 2005 and February 2007 the Board conducted five hearings of complaints alleging professional misconduct. All complaints were brought before the Board by the Surveyor General and all the cases were upheld by the Board.

One of the common factors contributing to the misconduct was that surveyors have been under pressure due to high work loads and demands from clients. This led to inadequate supervision of staff members who were not licensed surveyors. Poor office and field checking procedures were also common. All cases failed to meet the required Cadastral Survey Standards and Surveyor General's Rules in some way.

In the first complaint the surveyor's field staff set out two boundary pegs by way of a two leg hanging traverse from a traverse mark. The first peg was set out incorrectly by 10m and consequently the second peg was also misplaced. The second peg was inaccessible from the traverse mark, but the survey plan showed a fabricated tie from the traverse mark to the second peg. The situation was exacerbated by the surveyor showing another fabricated measurement to one of these old pegs on a later survey. If the field staff or surveyor had attempted to make any of these false measurements the error would have been revealed in the field. The survey practise errors of this case include inadequate checks on hanging traverses, fabricated observations on survey plans, inadequate supervision of field staff, inadequate procedures for retaining field notes, and reference to old pegs without confirming their position by measurement. This led the Surveyor General to believe that there could be a systemic problem resulting in a loss of confidence in other surveys certified by this surveyor, while accepting the surveyor had been wilfully misled by one of his staff.

The Board found the surveyor guilty of professional misconduct in certifying plans without carrying out sufficient checks to ensure the accuracy of the surveys, and without properly supervising work carried out by an employee. The Board ordered that the surveyor undertake accuracy checks on eight Land Transfer plans already signed and certified by him that may also have been surveyed by the same technician.

A surveyor relying on a very short origin, which included a 10' orientation error, was at the heart of another complaint. The origin line was a hanging line on the underlying survey and the surveyor's boundary definition was based on this origin. The survey traverse extended eight times the length of the origin line compounding the errors and uncertainties in the origin. The surveyor subsequently found additional marks to prove the unreliability of the underlying survey, but he did not alter his definition. LINZ requisitioned the surveyor several times to improve the definition. However, he could not achieve this because he was searching for more old marks in the wrong place, due to the orientation error. Eventually the Surveyor General's staff undertook

field work and in a short time found additional survey marks, which allowed the surveyor to produce a corrected and reliable definition.

The Board found the surveyor was guilty of professional misconduct in signing his survey as being correct despite his doubts about the reliability of the origin, and in failing to locate sufficient old survey marks to prove the orientation of the survey and boundary definition. The Board ordered that for twelve months every cadastral survey dataset lodged with LINZ by the surveyor be audited and certified by another licensed cadastral surveyor approved by the Board.

The third complaint relates to a plan that contained many deficiencies, including several inaccurate or false field measurements. The immediate error was the surveyor misidentifying a survey mark, which led to a 10' error in an angle. A five line traverse, which included this mark, showed two lines as measured which had not been measured. One of these lines was only adopted. The other line had been calculated as a closing line from the other four, two of which were erroneous. Had all the lines been observed correctly the initial misidentification of the survey mark

and 10' error would have been resolved. In addition the field notes showed a measured line that was not shown on the plan. If applied to the traverse this line could have proved the misclose. The surveyor knew of the errors but was unable to resolve them; he then lodged a plan that did not show any errors. This case highlights the need to locate and resolve errors.

The Board found that the surveyor was guilty of professional misconduct in that he signed a cadastral survey plan as being correct as to survey before resolving errors that he knew existed. As with the previous case the Board ordered that for twelve months every cadastral survey dataset lodged with LINZ by the surveyor be audited and certified by another licensed cadastral surveyor approved by the Board.

The fourth case revealed the surveyor's incompetence in e-survey application and basic survey practise. Over a 14 month period the surveyor had lodged 16 e-surveys which contained many significant errors, resulting in 26 requisition notices at a requisition rate of 162%. Three of the surveys were requisitioned three times and four other surveys were requisitioned twice.

The high number of significant errors demonstrated the surveyor's

incompetence which became a matter of negligence. He made little effort to check the correctness of the surveys before certifying them as being correct. He had relied heavily on the LINZ validation process and paid only scant attention to the e-survey validation reports.

The Board found that the surveyor had clearly failed to meet competency standards and cadastral survey rules and apply adequate checking procedures prior to lodging datasets. The Board cancelled the surveyors licence and removed his name from the register.

In the final complaint the surveyor failed to correct errors on a deposited plan within a reasonable time. A boundary peg had been incorrectly placed creating an error in title dimensions. All but one of the affected parcels had been corrected by a subsequent survey by another surveyor and only a complied plan was necessary to correct the last parcel. The Surveyor General served notice to the surveyor to prepare the correcting plan under section 52 of the Act. Instead of attending to the corrections the surveyor gave higher priority to other survey projects. For a period of eight months he frequently misled the

Surveyor General on the progress he was making to correct the errors.

The Board did not consider the Act allowed such discretion. Nor was other work priority a valid reason not to comply with the Surveyor General's notice. The Board ordered that the surveyor must complete all outstanding correcting plans before applying for the renewal of his licence beyond 30 June 2007.

All five surveyors were required to pay \$2500 as a contribution towards the costs of the hearings

In making its decisions the Board expressed the imperative that if a licensed cadastral surveyor has doubts about the accuracy of the survey then those doubts must be resolved before certifying the survey. The Board emphasised that surveyors hold a statutory obligation with regard to maintaining the accuracy of the cadastre, and this must not be jeopardised by succumbing to pressures from clients or through slack professional practise.

General Complaints

From time to time the Board receives complaints from the general public or other professionals regarding a surveyor's behaviour which they think

has been unprofessional or even illegal. Most often these complaints are not acts of professional misconduct as defined by Schedule 2, and therefore there is little or no action the Board can take. Some complaints are against people who are not licensed cadastral surveyors, or people who have never held a licence. Again under Schedule 2 the definition of professional misconduct relates only to licensed cadastral surveyors, so the Board is not authorised to take any action in these cases. Depending on the complaint, it may be a matter for the New Zealand Institute of Surveyors, if the person the complaint is about is a member of the Institute. Some alleged offences were about breaches of the Act that should be dealt with through the Courts. When the Board receives a complaint of this nature it will refer it to an appropriate authority, or the complainant may follow that course themselves.

Significant Failures

The Surveyor General is required by the Cadastral Survey Act to advise the Board of significant failures of standards and rules found in survey datasets submitted to LINZ. From 2004 to April 2007 there have been ten instances where the Surveyor General

has advised the Board of significant failures by surveyors. The failures were detected either through random audit of datasets after deposit, or through the verification of datasets when lodged for approval by LINZ.

Many of the significant failures related to surveyors not meeting the prescribed accuracy standards for vectors, or placing boundary or traverse marks. Others related to surveyors failing to find sufficient reliable old marks on which to base the boundary definition. Generally the failures are a result of poor survey practise and could be avoided if proper field checking procedures were employed, or sound office quality assurance processes were followed. In all cases the surveyor was required to undertake some corrective action.

Significant failures are not acts of professional misconduct, but the Board may take the advice from the Surveyor General of a significant failure into account when that surveyor next applies for a license to practice.

Surveyors Certification of Datasets

The professional misconduct hearings and the notices of significant failures suggest that some surveyors don't fully appreciate the significance of their

certification on a dataset. Section 47 of the Act, read in conjunction with Schedule 2, sets out very clearly what is expected of a licensed cadastral surveyor in certifying a dataset. It points strongly at the surveyor personally having carried out or having directed the survey. The surveyor must undertake sufficient checks to ensure accuracy of the survey, including pegging and ground marking. The Board has heard indirectly of situations where a surveyor, or surveyors, may be certifying datasets of surveys in locations distant from the surveyor's office, and where the work was carried out by a person who is not a licensed cadastral surveyor. In such a situation it is highly unlikely the proper personal direction and checking would have been afforded those surveys. If such practise resulted in a complaint of professional misconduct the Board would view that complaint as a very serious breach of Schedule 2 of the Act.

Review of Standards for Licensing Cadastral Surveyors

The Board is planning to review its standards for licensing cadastral surveyors sometime in 2008. One issue the review will cover is renewing

a licence when there are outstanding requirements of a Board Order or the payment of a Board invoice. The Board will consult with the survey profession on the proposed review.

Future Bulletins

While the content of this bulletin has focused mainly on complaints and shortcomings by surveyors, its intention is to enlighten others. It emphasises the need for cadastral surveyors to maintain proper quality assurance procedures and take their statutory obligations seriously. Future bulletins will deal with other aspects of the Board's work and matters of interest to the profession. The Board welcomes feedback. Its address is:

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